

ESTTA Tracking number: **ESTTA240896**

Filing date: **10/06/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	David H. Schultz		
Entity	Individual	Citizenship	UNITED STATES
Address	24171 W. Rt. 121 Grayslake, IL 60030 UNITED STATES		

Correspondence information	James P. Hanrath Attorney at Law Much Shelist 191 N. Wacker drive, Suite 1800 Chicago, IL 60606-1615 UNITED STATES jhanrath@muchshelist.com, asacharoff@muchshelist.com, seberle@muchshelist.com Phone:312.521.2760
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### Registration Subject to Cancellation

Registration No	2772622	Registration date	10/07/2003
Registrant	Petsport USA 1160 Railroad Avenue Pittsburg, CA 94565 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 028. First Use: 2002/01/22 First Use In Commerce: 2002/02/04  
All goods and services in the class are cancelled, namely: PET TOYS

### Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Registrant's Registration adversely affects Petitioner's ability to register his prior JUNGLE BALL common law marks relative animal playtoy balls.

### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	JUNGLE BALL # and JUNGLE BALL # (& logo design) common law marks
Goods/Services	animal playtoy balls

Attachments	Grounds.pdf ( 1 page )(50070 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/james p. hanrath/
Name	James P. Hanrath
Date	10/06/2008

Statement of the Grounds:

Petitioner and his predecessor in interest has adopted and used the common law mark JUNGLE BALL <sup>TM</sup> in word and logo formats for animal playtoy balls at least as early as December 31, 1991 and such marks have been continuously used in commerce well before the first use of Registrant's mark JUNGLE BALLS. Registrant's mark JUNGLE BALLS so resembles Petitioner's JUNGLE BALL <sup>TM</sup> marks for similar if not identical goods as to be likely to cause confusion, to cause mistake, and to deceive with consequent injury to Petitioner, the trade and the public. Further, consumers and prospective customers are likely to be confused, mistaken, or deceived into believing the Registrant or Registrant's JUNGLE BALLS goods are connected with, sponsored by, approved by, or somehow affiliated with Petitioner. Still further, the subject Registration of the Registrant would adversely affect the ability of Petitioner to register his JUNGLE BALL <sup>TM</sup> marks relative animal playtoy balls with the USPTO.